REMARKS

In the Office Action[1], the Examiner rejected claims 23-27, 30-37, 39-41, 43, 46,

47, and 49-52 under 35 U.S.C. § 101; rejected claims 24, 25, 28[2], 31-33, 37, 39, 40, 43,

47, and 49-52 under 35 U.S.C. § 103(a) as being unpatentable over U.S Patent

6,400,392 to Yamaguchi et al. ("Yamaguchi"), in view of U.S. Patent 5,524,198 to

Matsumoto et al. ("Matsumoto"); rejected claims 26, 27, 30, 34-36, and 46 as being

unpatentable over Yamaguchi, in view of U.S. Patent 6,111,517 to Atick et al. ("Atick");

and rejected claims 23 and 41 as being unpatentable over Yamaguchi in view of

Matsumoto, further in view of U.S. Patent 6,799,208 to Sankaranarayan et al.

("Sankaranarayan").

By this amendment, Applicant amends claims 43 and 49-52, and cancels claim

37 without prejudice or disclaimer. Claims 23-27, 30-36, 39-41, 43, 46, 47, and 49-52

remain pending.

Applicant respectfully traverses the rejection of claim 23-27, 30-37, 39-41, 43, 46,

47, and 49-52 under 35 U.S.C. § 101. Claim 37 has been canceled, rendering its

rejection moot.

Regarding independent claims 43, 51, and 52, the claims have been amended to

clearly recite physical articles, such a processor performing the steps of the claims, and

therefore the claims cannot be interpreted to be performed by a human operator alone.

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[1] The Office Action may contain statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

[2] Applicant notes that the Office Action provides a rejection for claim 28, however, claim 28 was canceled in Applicant's response filed March 15, 2006, and thus the rejection of claim 28 is moot.

The claims are therefore tied to a particular machine, and fall within one of the recognized classes of statutory subject matter.

Regarding independent claim 50, the claim recites "[a] computer-readable storage medium <u>storing</u> instructions which, when executed by a <u>processor</u> . . ." (emphases added). As the claim positively recites the storage of instructions on a storage medium, and execution of the instructions by a processor, the claim cannot be construed to be directed to software *per se*, and is positively tied to a statutory category.

Finally, regarding independent claim 49, the claim positively recites, in the body of the claim, the interaction between a **user's system** and a **site remote from the user's system**, via a **network**, and thus the claim cannot be interpreted to be performed within the human mind or be directed to "an abstract idea, a mental process or substantially all practical uses of (preempting) a law of nature of a natural phenomenon." <u>Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101</u> dated August 2009, at 4.

The machine-or-transformation test requires that a claimed process must "be tied to a particular machine ... or particularly transform a particular article to a different state or thing." <u>Id.</u> at 5. "A 'machine' is a concrete thing, consisting of parts, or **of certain devices and combination of devices**. This includes every mechanical device or combination of mechanical powers and devices to perform some function and produce a certain effect or result." <u>Id.</u> (emphasis added). As the claim currently recites "at the user's system, receiving the image on the user's system via a network," and "at a site remote from the user's system . . .," the claim is directed to a combination of devices for performing the series of acts recited in the claim. The Office has provided no

explanation as to how such recitations fail to constitute a combination of devices such that the claim is not directed to a machine. Accordingly, the claim falls within one of the recognized classes of statutory subject matter

Applicant therefore respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 101.

Applicant respectfully traverses the rejection of claims 24, 25, 28, 31-33, 37, 39, 40, 43, 47, and 49-52 under 35 U.S.C. § 103(a) as being unpatentable over Yamaguchi in view of Matsumoto. As noted in footnote 2, claim 28 was canceled in Applicant's response filed March 15, 2006, and therefore the rejection of claim 28 is moot. Furthermore, claim 37 has been canceled, rendering its rejection moot.

Independent claim 43, for example, recites a method comprising:

> adjusting image parameters over a period of time to produce
> a degraded image in response to a determination that [a]
> user is inactive . . . [and]
>
> increasing quality of the degraded image upon receiving a
> user request to improve the quality of the degraded image

(emphases added). Yamaguchi and Matsumoto, taken alone or in combination, fail to teach or suggest at least these claimed steps.

Yamaguchi discloses a "video information adjusting apparatus that automatically adjusts the resolution and brightness of video information, for example, according to a user's condition . . . ." Yamaguchi, col. 2, ll. 4-5. "[A] window information managing part 1416 examines information about the usage of the windows user its management. When the user has performed a prescribed operation on a full-motion window, the window information managing part 1416 determines that the user's attention is directed

to that full motion window . . . for full-motion windows where no user operations have been performed for a predetermined time, the resolution or brightness of such windows is reduced to prevent wastage of computer resources." Yamaguchi, col. 16, ll. 21-32. "This makes it possible to determine the full-motion windows to which the user's attention is directed, so that the resolution or brightness of the attention window can be increased while reducing the resolution or brightness of other windows. Furthermore, since image resolution or brightness **can be controlled automatically**, wastage of computer researches can be prevented automatically." Yamaguchi, col. 15, ll. 10-16 (emphasis added).

While Yamaguchi discloses reducing the resolution or brightness of windows not in use, and increasing resolution or brightness of windows having the user's attention, there is no discussion in Yamaguchi that any such improvement in window quality is performed "upon receiving a user request to improve the quality of the degraded image," as recited in amended claim 43. Rather, Yamaguchi discloses an automated system whereby the system determines when to increase resolution, or decrease resolution. There is no discussion of any sort of user request in Yamaguchi, and the system automatically determining that the user's attention is trained on a particular window does not constitute "receiving a user request to improve the quality of the degraded image," as recited in amended claim 43.

Accordingly, Yamaguchi does not teach or suggest "adjusting image parameters over a period of time to produce a degraded image in response to a determination that [a] user is inactive . . . [and] increasing quality of the degraded image upon receiving a

user request to improve the quality of the degraded image," as recited in amended claim 43 (emphases added).

Matsumoto does not cure the deficiencies of Yamaguchi. Matsumoto discloses a character processing method "in which character patterns are outputted in a plurality of windows using any of the processing schemes . . . a processing scheme suited to a particular window is selected . . . and a character or graphic processed by the processing scheme selected for the window is outputted for each and every window." Matsumoto, col. 1, line 38-45. "In FIG. 10A, a window 1001 is an active window (a window in a state in which it can be edited) . . . [a] window 1002 is an inactive window (a window in a state in which it cannot be edited) . . . [t]he required specifications of window 1002 are such that since the window is in a state in which it cannot be edited, no problems arise even if there is some reduction in speed." Matsumoto, col. 6, ll. 35-49.

Matsumoto only discloses that a reduction in speed of character or graphics processing in a window will not cause problems if a window is in a non-editable state. Matsumoto does not teach or suggest "receiving a user request to improve the quality of the degraded image," as recited in amended claim 43.

As such, Yamaguchi and Matsumoto, even if combined, do not teach or suggest "adjusting image parameters over a period of time to produce a degraded image in response to a determination that [a] user is inactive . . . [and] increasing quality of the degraded image upon receiving a user request to improve the quality of the degraded image," as recited in amended claim 43 (emphases added).

Yamaguchi and Matsumoto thus fail to establish a *prima facie* case of obviousness with respect to independent claim 43, at least because the references fail to teach each and every element of the claim. Claim 43 is therefore allowable for at least the reasons presented above.

Independent claims 49-52, while of different scope than claim 43, are allowable for at least similar reasons as claim 43. Dependent claims 24, 25, 31-33, 39, 40, and 47 are also allowable at least due to their dependence on allowable independent claim 43.

Applicant respectfully traverses the rejection of claims 26, 27, 30, 34-36, and 46 under 35 U.S.C. § 103(a) as being unpatentable over Yamaguchi, in view of Matsumoto and Atick.

Claims 26, 27, 30, 34-36, and 46 depend on independent claim 43. As noted above, Yamaguchi and Matsumoto do not teach or suggest each and every element of independent claim 43. Atick fails to cure the deficiencies of Yamaguchi and Matsumoto. Atick does not teach or suggest "adjusting image parameters over a period of time to produce a degraded image in response to a determination that [a] user is inactive . . . [and] increasing quality of the degraded image upon receiving a user request to improve the quality of the degraded image," as recited in amended claim 43 (emphases added). Accordingly, Yamaguchi, Matsumoto, and Atick, taken along or in combination, fail to teach each and every element of claims 26, 27, 30, 34-36, and 46. For at least this reason, claims 26, 27, 30, 34-36, and 46 distinguish over Yamaguchi, Matsumoto, and Atick.

Applicant respectfully traverses the rejection of claims 23 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Yamaguchi, in view of Matsumoto and Sankaranarayan.

Claims 23 and 41 depend on independent claim 43. As noted above, Yamaguchi and Matsumoto do not teach or suggest each and every element of independent claim 43. Sankaranarayan fails to cure the deficiencies of Yamaguchi and Matsumoto. Sankaranarayan does not teach or suggest "adjusting image parameters over a period of time to produce a degraded image in response to a determination that [a] user is inactive . . . [and] increasing quality of the degraded image upon receiving a user request to improve the quality of the degraded image," as recited in amended claim 43 (emphases added). Accordingly, Yamaguchi, Matsumoto, and Sankaranarayan, taken along or in combination, fail to teach each and every element of claims 23 and 41. For at least this reason, claims 23 and 41 distinguish over Yamaguchi, Matsumoto, and Sankaranarayan.

In view of the foregoing remarks, Applicant respectfully requests the Examiner's reconsideration of the application, and the timely allowance of the pending claims.
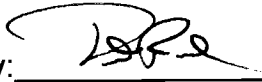
If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, the Examiner is invited to call the undersigned at (202) 408-4268.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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Dated: October 7, 2009   By:_____

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